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**OFFICE OF PETITIONS** 

In re Application of

ZUEV, et al

Application No. 10/603,216

Filed: June 26, 2003

Attorney Docket No. ABBYY-U09

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2007, to revive the above-identified application.

## The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action, mailed February 16, 2007, which set a shortened statutory period for reply of **three** (3) **months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

With respect to item (1): A review of the Office record shows that the reply to the Office action dated February 16, 2007, is improper. In this regard, petitioner should review the non-final Office action mailed February 16, 2007, and submit a reply accordingly. Any questions concerning the Office action should be directed to the Examiner at (571) 272-7445. Since the reply filed October 7, 2007 is improper, it does not meet the requirements as set forth in 37 CFR 1.137(b).

With respect to item (3): The petition contains a statement of unintentional delay signed by an assignee of the entire interest, however, the assignee has not been properly made of record under 37 CFR 3.71 which states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with  $\S$  3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

## 37 CFR 3.73(b) states:

- (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
- (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
- (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
- (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
- (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
- (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

Accordingly, since the petition was not accompanied by the reel and frame or a copy of the assignment document, the statement under 37 CFR 3.73(b) is incomplete and cannot be accepted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition** under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:

Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450 By hand:

U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions

Randolph Building 401 Dulany Street Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/ Diane C. Goodwyn Petitions Examiner Office of Petitions